

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PERCY LEVY,

Petitioner,

v.

JEFFREY UTTECHT,

Respondent.

Case No. C06-1224JLR

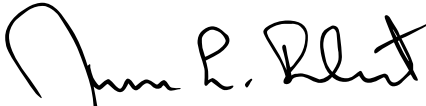
ORDER

This matter comes before the court on Petitioner Percy Levy's motion for certificate of appealability under 28 U.S.C. § 2253(c) (Dkt. # 41). Mr. Levy seeks to appeal the court's August 14, 2007 order denying his 28 U.S.C. § 2254 petition for writ of habeas corpus (Dkt. # 38). For the reasons stated below, the court DENIES the motion.

A certificate of appealability may issue only if the "applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The certificate must also "indicate which specific issue or issues satisfy [that test]." 28 U.S.C. § 2253(c)(3). An applicant makes a substantial showing if they demonstrate that their petition involves issues which are debatable among reasonable jurists, that a court could resolve the issues differently, or that the issues are adequate enough to deserve encouragement to proceed further. *See Dawson v. Mahoney*, 451 F.3d 550, 551 (9th Cir. 2006) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

01 The court has reviewed the papers filed in this matter, including the Report and
02 Recommendation (Dkt. # 35) and Objections thereto (Dkt. # 36) as well as Mr. Percy's
03 motion for issuance of certificate of appealability (Dkt. # 41) and finds that Petitioner
04 has not met his burden. Mr. Levy has not made a substantial showing of the denial of a
05 constitutional right and the motion for certificate of appealability is, therefore,
06 DENIED.

07 DATED this 16th day of October, 2007.

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11 JAMES L. ROBART
12 United States District Judge
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